

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RUSSELL NEAVE,	:	CIVIL ACTION NO. 1:19-CV-776
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
THE HERSHEY COMPANY,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 24th day of June, 2019, upon consideration of the report (Doc. 5) of Magistrate Judge Martin C. Carlson, recommending that the court dismiss the complaint (Doc. 1) of *pro se* plaintiff Russell Neave (“Neave”) on several grounds, including that the court lacks subject matter jurisdiction over the claims presented, which are based on Neave’s “fantastic or delusional scenarios,” and that Neave cannot assert a federal civil rights cause of action against a purely private entity like the defendant, (see Doc. 5 at 8-10), and it appearing that Neave has not objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford “reasoned consideration” to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory

committee notes, and, following independent review of the record, the court being in agreement with Judge Carlson's recommendation, concluding that there is no clear error on the face of the record, and finding that leave to amend would be futile and cause undue delay because Neave's complaint is legally rather than factually deficient and thus incurable, see Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002), it is hereby ORDERED that:

1. The report (Doc. 5) of Magistrate Judge Carlson is ADOPTED.
2. Neave's complaint (Doc. 1) is DISMISSED with prejudice.
3. The Clerk of Court is directed to CLOSE this case.
4. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania